

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

CHARLES EDWARD BAILEY,

Plaintiff,

v.

CIVIL ACTION NO. 5:17-cv-04615

BECKLEY VA MEDICAL CENTER, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On December 26, 2017, the Plaintiff, proceeding *pro se*, filed a *Complaint* (Document 2) in this matter alleging medical negligence. The Plaintiff filed an *Amended Complaint* (Document 10) on February 20, 2018.

Pending in the matter are the *United States Motion to Dismiss the Beckely V.A. Medical Center, Dr. Sertoz, Dr. Taylor, Dr. Harper, K. Grimes, K. McGraw and Dr. Berryman and Substitute the United States* (Document 22) filed on March 21, 2018; and the *United States' Motion to Dismiss for Failure to Comply with the West Virginia Medical Practice Liability Act* (Document 27) filed on March 27, 2018.

By *Standing Order* (Document 3) entered on December 26, 2017, this action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On May 7, 2018, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 32) wherein it is recommended that the *United States Motion to Dismiss the Beckley V.A. Medical Center, Dr. Sertoz, Dr. Taylor, Dr. Harper, K. Grimes, K. McGraw and Dr. Berryman and Substitute the United States* (Document 22) be granted; the *United States' Motion to Dismiss for Failure to Comply with the West Virginia Medical Practice Liability Act* (Document 27) be granted; the Plaintiff's Complaints (Documents 2 & 10) be dismissed; and the matter be removed from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by May 24, 2018, and none were filed by either party.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the *United States Motion to Dismiss the Beckley V.A. Medical Center, Dr. Sertoz, Dr. Taylor, Dr. Harper, K. Grimes, K. McGraw and Dr. Berryman and Substitute the United States* (Document 22) be **GRANTED**; the *United States' Motion to Dismiss for Failure to Comply with the West Virginia Medical Practice Liability Act* (Document 27) be **GRANTED**; the Plaintiff's Complaints (Documents 2 & 10) be **DISMISSED**; and this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: May 31, 2018

A handwritten signature in blue ink, reading "Irene C. Berger", is written over a horizontal line.

IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA